

COMMISSIONERS APPROVAL

CHILCOTT *γ*

LUND *all*

THOMPSON *ok*

TAYLOR (Clerk & Recorder)

Date.....February 28, 2006

Members Present..... Commissioner Greg Chilcott,
Commissioner Betty Lund and Commissioner Alan Thompson

Minutes: Sally Fortino and Glenda Wiles

The Board of County Commissioners met to discuss the space for the Emergency Operations Center. Present at this meeting was Civil Counsel James McCubbin, D.E.S. Coordinator Ron Nicholas, Bio-Terrorism Coordinator Charmell Owens, Sheriff Chris Hoffman and Under Sheriff Kevin McConnell. After discussion, it was determined the Maintenance Department personnel would be transferred to the former DES quarters, and the Emergency Operations Center/DES would utilize the space formerly used as the Elections Room. There is ductwork to be finished, and Maintenance will be notified, by memo, of the pending move.

In other business, the Board of County Commissioners met to discuss the Thomas Subdivision. Renee Van Hoven, Planning Department; Terry Nelson, Applebury Survey; and Ronald Thomas, owner, were present.

Commissioner Lund read the following statement: Today's agenda includes one or more land use issues. Because of my years of service as Ravalli County Clerk & Recorder and now as Commissioner and because members of my family are involved in the real estate profession, I am providing this statement in the interest of full and open disclosure. My husband, son and brother-in-law are realtors who conduct business in this county. I do not participate in their real estate business or related matters except as the passive title owner of the building rented by their real estate business. Although connections with my family or their business and the land use issues facing us today are possible, I am not aware of any direct connections and thus do not believe I have any conflicts of interest arising out of my participation in today's meeting.

Renee presented a staff report:



REQUEST FOR COMMISSION

ACTION

OG-06-02-214

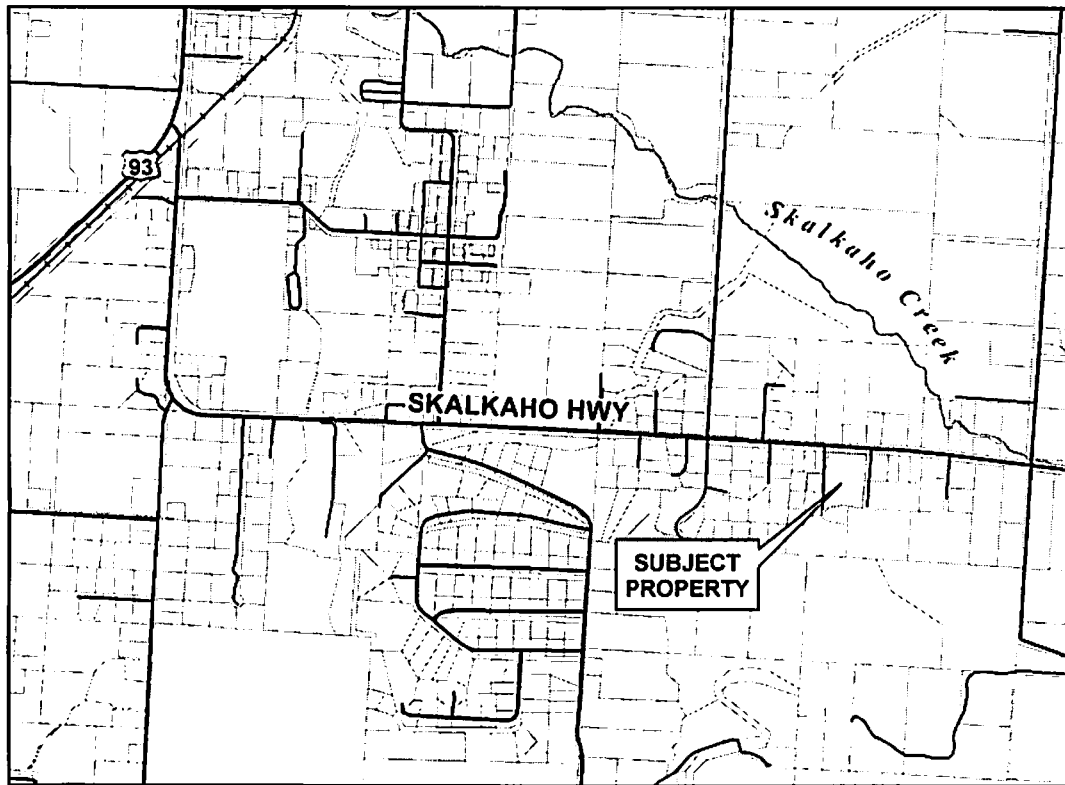
Site Visit: February 21, 2006 at 4:00 p.m.
Meeting: February 28, 2006 at 9:00 a.m.
Request: To act on the Thomas Minor Subdivision and Three Variance Requests.

I. ACTION REQUESTED

This is a request from the applicant, Ronald William Thomas, represented by Terry Nelson, Applebury Survey, to approve the **Thomas Minor Subdivision and Three Variance Requests**.

II. BACKGROUND

Thomas Subdivision is a five-lot minor subdivision located south of Hamilton off Skalkaho Highway and Long Lane (Map 1). There are existing homes on proposed Lots B1, B4, and B5 and all lots are proposed for single family residences. The average lot size is 2.00 acres and this development is located adjacent to existing development of similar densities.



Map 1: Location Map
(Source Data: Ravalli County Planning Department)

In conjunction with the subdivision proposal, the applicant is requesting the following three variances:

1. For relief from Sections 5-4-5(a) and (b)(2) of the Ravalli County Subdivision Regulations, to allow Thomas Court to meet two-lot local road standards instead of meeting minor local road standards.
2. For relief from Sections 5-4-5(a) and (b)(2) of the Ravalli County Subdivision Regulations, to allow the portion of the unnamed road on Lot B1 to remain in its current condition instead of improving the road to meet minor local road standards.
3. For relief from Sections 5-4-5(a) and (b)(2) of the Ravalli County Subdivision Regulations, to allow Long Lane to meet minor local road standards from Skalkaho Highway to Thomas Court, except for the cul-de-sac requirement and to allow no improvements to Long Lane from Thomas Court to the southern boundary of the proposed subdivision.

Staff is recommending conditional approval of the subdivision and denial of all three variance requests.

III. PLANNING BOARD RECOMMENDATIONS

The Ravalli County Planning Board conducted a public hearing on this proposal on February 1, 2006 and took the following actions:

The Board made a motion to recommend **approval** of Variance Request #1, subject to the conditions that Thomas Court be constructed to have a 20-foot wide gravel travel surface, that dust abatement is applied to Thomas Court prior to final plat approval and once in the following year, and that a no-ingress/egress be placed along the Thomas Court frontage of Lots B2 and B4 on the final plat. **The Board voted 7-1 to approve this motion.**

The Board made a motion to recommend **approval** of Variance Request #2, based on the finding that there will be no additional impacts from this subdivision on the unnamed road that serves Lot B1 because the house on Lot B1 is existing. **The Board voted 5-3 to approve this motion.**

The Board made a motion to recommend **approval** of Variance Request #3, based on the finding that there will be no additional impacts from this subdivision on the portion of Long Lane from Thomas Court to the southern boundary of the property because the house on Lot B4 is existing and has already been utilizing the road. **The Board voted 5-3 to approve this motion.**

The Board made a motion to recommend **approval** of the Thomas Subdivision, based on the findings of fact and conclusions of law in the staff report and subject to the conditions in the staff report, amending Condition 8 to state that an encumbrance of \$250 per lot is due to the Hamilton School District upon first conveyance, including lease or rent, of Lots B2 and B3, Condition 9 that the Fire District contribution of \$500 per lot prior to final plat applies to Lots B2 and B3, and adding a condition that the applicant provide for a 10-foot wide irrigation easement along the eastern boundary of the subdivision to ensure that the neighbors to the east have access to the irrigation ditch. **The Board voted 6-2 to approve this motion.**

Comments from the meeting are contained in the record.

IV. PLANNING BOARD'S RECOMMENDED MOTIONS

(Note: Changes to staff's recommended motions are in underline/~~strikeout~~.)

1. That the variance request from Sections 5-4-5(a) and (b)(2) of the Ravalli County Subdivision Regulations, to allow Thomas Court to meet two-lot local road standards instead of meeting minor local road standards, be ~~denied~~ **approved**, ~~based on the findings of fact and conclusions of law in the staff report~~ subject to the conditions as amended herein.
2. That the variance request from Sections 5-4-5(a) and (b)(2) of the Ravalli County Subdivision Regulations, to allow the portion of the unnamed road on Lot B1 to remain in its current condition instead of improving the road to meet

minor local road standards, be ~~denied~~ **approved**, based on the findings of fact and conclusions of law in the staff report that there will be no additional impacts from this subdivision on the unnamed road that serves Lot B1 because the house on Lot B1 is existing.

3. That the variance request from Sections 5-4-5(a) and (b)(2) of the Ravalli County Subdivision Regulations, to allow Long Lane to meet minor local road standards from Skalkaho Highway to Thomas Court, except for the cul-de-sac requirement and to allow no improvements to Long Lane from Thomas Court south to the southern boundary of the proposed subdivision, be ~~denied~~ **approved**, based on the findings of fact and conclusions of law in the staff report that there will be no additional impacts from this subdivision on the portion of Long Lane from Thomas Court to the southern boundary of the property because the house on Lot B4 is existing and has already been utilizing the road.
4. That the Thomas Subdivision be **approved**, based on the findings of fact and conclusions of law in the staff report and subject to the conditions in the staff report as amended herein.

V. PLANNING BOARD'S RECOMMENDED CONDITIONS

(Note: Changes to staff's recommended motions are in underline/~~strikeout~~.)

1. A document entitled "Notifications to Future Property Owners" that includes the following notifications and the attachments listed below shall be included in the submittal of the final plat to the Planning Department and filed with the final plat:

Notification of Proximity to Agricultural Operations. This subdivision is located near existing agricultural activities. Some may find activities associated with normal agricultural activities objectionable and dangerous.
(Effects on Agriculture)

Notification of Road Maintenance. Ravalli County, the State of Montana, or any other governmental entity does not maintain Long Lane, Thomas Court, or the unnamed road traversing Lot B1 and therefore does not assume any liability for improper maintenance or the lack thereof. A Road Maintenance Agreement was filed with this subdivision and outlines what parties are responsible for maintenance and under what conditions. (Effects on Local Services)

Limitation of Access onto Skalkaho Highway. A "no ingress/egress" restriction is located along the Skalkaho Highway frontage of the subdivision, which precludes vehicular access onto this state-maintained road. This limitation of access may be lifted or amended with approval of the County.
(Effects on Local Services)

2. Protective covenants for this subdivision shall be submitted with the final plat that include the following provisions:

Living with Wildlife. (See letter from FWP in application packet for the required provisions) (*Effects on Wildlife and Wildlife Habitat*)

Waiver of Protest to Creation of RSID/SID. Owners and their successors in interest waive all rights in perpetuity to protest the creation of a city/rural improvement district for any purpose allowed by law, including, but not limited to a community water system, a community waste water treatment system, and improving and/or maintaining the roads that access the subdivision including related right-of-way, drainage structures, and traffic control signs. (*Effects on Local Services*)

Building Standards. As a condition of approval recommended by the Hamilton Rural Fire District, the houses within this subdivision are required to be built to IRBC building standards. For more information, contact the Hamilton Rural Fire District and PO Box 1994, Hamilton, MT 59840. (*Effects on Local Services*)

Required Posting of County-Issued Addresses for Lots within this Subdivision. The Hamilton Rural Fire District has adopted Fire Protection Standards which require the lot owners to post County-issued addresses at the intersection of the driveways leading to the primary residence and the road providing access to the lot as soon as construction on the residence begins. (*Effects on Local Services & Effects on Public Health and Safety*)

Access Requirements for Lots within this Subdivision. The Hamilton Rural Fire District has adopted the Fire Protection Standards. All accesses, including driveways to residences over 150' in length, must have a minimum unobstructed travel surface width of 20', a vertical clearance of 13'6" and an all-weather surface that can accommodate the weight of a fire truck. Please contact the Hamilton Rural Fire District for further information on the requirements of the Hamilton Rural Fire District. (*Effects on Local Services & Effects on Public Health and Safety*)

Primary Heat Source. The primary heat source for the newly constructed residences in this subdivision shall be at least 75% efficient. (*Effects on Natural Environment*)

Control of Noxious Weeds. Lot owners shall control the growth of noxious weeds on their respective lot(s). (*Effects on Natural Environment*)

Lighting for New Construction. Full cut-off lighting shall be required for any new construction within this subdivision. A full cut-off fixture means fixtures, as installed, that are designed or shielded in such a manner that all light rays emitted by the fixture, either directly from the lamps or indirectly

from the fixture, are projected below a horizontal plane through the lowest point on the fixture where light emitted. The source of light is fully shielded, top and sides, so as not to emit light upwards or sideways, but only allowing light to shine down towards the subject that is to be lighted. Spotlighting of flag poles shall be permitted. *(Effects on Public Health & Safety)*

Radon Exposure. The owner understands and accepts the potential health risk from radon concentrations, which are presently undetermined at this location. Unacceptable levels of radon can be reduced through building design and abatement techniques incorporated into structures. *(Effects on Public Health and Safety)*

Amendment. The covenants filed with the final plat shall state that written Governing Body approval shall be required for amendments to provisions of the covenants that were required to be included as a condition of subdivision approval. *(Effects on all six criteria)*

3. The subdividers shall include an RSID/SID waiver in a notarized document filed with the subdivision plat that states the following: Acceptance of a deed for a lot within this subdivision shall constitute the assent of the owners and any successors in interest to any future RSID/SID, based on benefit, for a community wastewater system, community water system, or upgrading roads leading to or within the subdivision, including but not limited to paving, curbs and gutters, non-motorized transportation facilities, street widening, and drainage facilities. *(Effects on Local Services)*
4. A homeowners' association shall be formed for this subdivision and the irrigation agreement filed with the final plat shall indicate that irrigation rights are to be transferred to the homeowners' association and then distributed in accordance with the irrigation plan. *(Effects on Agricultural Water User Facilities)*
5. A Master Irrigation Plan that meets the requirements of Section 3-2-15 of the Ravalli County Subdivision Regulations, which would include the plat-sized plan and the irrigation agreement, shall be submitted before final plat approval. *(Effects on Agricultural Water User Facilities)*
6. The final plat shall show a no ingress/egress zone along the Skalkaho Highway frontage of the subdivision, excepting the existing approach to Long Lane, and along the Thomas Court frontage of Lots B2 and B4. *(Effects on Local Services and Variance #1)*
7. The easement for Long Lane shall be labeled as a public road and utility easement. *(Effects on Local Services)*
8. The applicant shall ~~submit a letter or receipt from the Hamilton School District stating that they have received a \$250 per lot contribution prior to final plat approval~~ place an encumbrance on the final plat that \$250 per lot is due to the Hamilton School District upon first conveyance, including lease or rent, of Lots B2 and B3. *(Effects on Local Services)*

9. The developer shall submit a statement of approval of the water supply from the Hamilton Rural Fire District and documentation that a certified engineer with a commercially reasonable policy of errors and omissions insurance has verified that the pond provides a year-round water supply that can generate a flow of 500 gallons per minute for 120 minutes or provide evidence from the Fire District with the final plat submittal that a \$500 per lot contribution to the Fire District was made upon subdivision approval for Lots B2 and B3. *(Effects on Local Services & Public Health and Safety)*
10. The subdividers shall provide evidence with the final plat submittal that they have applied for County-issued addresses for each lot within this subdivision. *(Effects on Public Health and Safety)*
11. Thomas Court shall be constructed to meet two-lot local road standards, except that a 20-foot wide gravel travel surface shall be required. *(Variance #1)*
12. Dust abatement shall be applied prior to final plat approval and once in the following year. *(Variance #1)*
13. The applicant shall provide for a 10-foot wide irrigation easement along the eastern boundary of the subdivision. *(Effects on Agricultural Water User Facilities)*

REMAINING ISSUES: None known.
FISCAL IMPACT: No extraordinary fiscal impacts noted.
ATTACHMENTS: Application package
Staff Report
Planning Board Meeting Minutes
STAFF: Renee Van Hoven
DATE: February 16, 2006

James reminded the Board of County Commissioners of the importance of following the variance criteria.

The meeting was opened for public comment.

Terry Nelson agreed with the Planning Board's recommendations. He has no issues with the Planning Board or staff. Long Lane is a gravel road that serves several residences, including three on this property. Three more residences are possible on this property. He understands the Fire Department's request for 20-foot road width. There are no impacts to others. Long's access to Skalkaho is improved. It is more than fair, and has the developer paying for resurfacing of Long Lane. More is not needed. There was no further public comment.

Commissioner Lund asked about access to Skalkaho. Renee said Long Lane is the existing access.

Commissioner Lund asked if the 10' easement for irrigation should be in the conditions. Renee said it should be on the Request for Commission Action. Mr. Thomas is agreeable. It is added to the plat decision.

Commissioner Lund mentioned the need for corrections to the contributions to school, lot B2-B3. Renee said corrections would be made in the final plat decision.

Commissioner Lund said the plat shows a proposed driveway off Long Lane to B2. Terry said the Planning Department wanted it to come off Thomas Court.

Commissioner Lund asked if they would pave from Skalkaho to Thomas court. Terry said they would, and there is plenty of access for a turn-around.

Commissioner Lund asked if there is sufficient turnaround for Fire Department equipment. Mr. Thomas said garbage trucks have no problem.

Commissioner Thompson said he consistently sees the concern of the Fire District. He has no idea how they would turn around. He sees no type of turnaround proposed on Long Lane. He suggested an increase to 25' is necessary. He understands the Planning Board's recommendations. It is appropriate to pave Long Lane and Thomas Court. Build whatever type of turnaround is necessary. It doesn't appear there will be great impact; he could understand the reason for variance acceptance, but the Fire Department needs safety issues addressed. Some residences are inaccessible to fire equipment to the west and south. The concern is that new structures need health and safety measures in effect. Long Lane and Thomas Court should be paved and a turnaround established. Commissioner Chilcott asked if a cul-de-sac is needed at the southern end of Long Lane. Commissioner Thompson said a radius big enough to turn around is needed, whatever is recommended by the Fire Department. If the Board says it won't require a paved road, then it must require a turn around.

Commissioner Chilcott said he would like multiple access points. It is possible to put an easement off the east end of Thomas Court for the future; if ever we had services out there, we would be able to tie in for future through-transportation. It makes sense to provide for that.

Terry said the irrigation line is on the east boundary. Commissioner Chilcott said it is not in the immediate future, but it makes sense to connect Thomas Court with an easement to the property line. It is granting a right-of-way, but we won't have to deal with it, except on paper.

Terry said the Fire Department is concerned with the width of the road. The need to use it as emergency access probably won't happen. If the road is serving only two lots it needs to be only 12' wide; we are willing to go to 20'. We agreed to control dust with abatement. We could do a cul-de-sac, but paving to serve two lots may not be necessary. James said the focus of the conversation is on what the Fire Department wants; that is not one of the variance criteria. Focus on the criteria. The findings will have to be rewritten

if you are going to grant variances in part or in whole. If there is a fire and they can't get there, and that is connected to the variance, there is a problem.

Commissioner Lund said we must decide if Thomas Road needs to be paved.
Commissioner Chilcott said dust abatement is frequently not carried out over time.
Commissioner Thompson said this is a five-lot subdivision, asking that some roads stay the same, with one slightly improved.

The applicant would increase property value by paving Thomas Court. It is a good-sized lot. The problem with dust abatement is that it doesn't get kept up. Regulations call for it to be paved. We could look at variances on other roads.

Renee said if you deny variance # 1 they would have to improve Thomas to have a 20'-wide paved road with a cul-de-sac; hammerheads are not allowed.

Variance Criteria:

Commissioner Chilcott said for C #1: accept staff findings and conclusions.
Commissioner Thompson said he agrees with planning on #2. On #3, either lot b1 or b4 can be accessed off Long Lane or Thomas court. He agreed that the developer should not have to improve roads that go through subdivision but don't benefit the subdivision.
Why would a builder have to build roads that don't benefit the subdivision?
Commissioner Chilcott said on #2, there is a public health and safety concern, for residents and volunteers.

Renee said the Fire Department wants all roads and driveways constructed to County standards.

Commissioner Chilcott expressed concern with the 12' width for emergency vehicles.
Can they pass each other?

Commissioner Thompson said the only authority we have is within the subdivision. The road will narrow back down outside the subdivision.

Criteria #1 agree or disagree:

Commissioner Thompson agreed because the conclusion talks about additional dust pollution.

Commissioner Lund said they have to remodel the finding of fact.
James suggested the Commissioners go through the variance criteria, based on that evaluation and make a motion to approve or disapprove; the motion should include what findings are. Commissioner Lund agreed. Commissioner Chilcott disagreed, because they need a wider road to accommodate emergency equipment.

Criteria #2 Commissioner Thompson disagreed; Commissioner Lund disagreed;
Commissioner Chilcott disagreed, due to an increase in health and safety concerns for the neighborhood.

Criteria #3 Commissioner Lund agreed; Commissioner Thompson agreed, stating there would be difficulty in providing an easement; Commissioner Chilcott disagreed due to past actions.

Criteria #4 Commissioner Thompson disagreed; Commissioner Lund agreed; Commissioner Chilcott disagreed because dust palliative is only temporary.

Criteria #5 Commissioner Thompson agreed; Commissioner Lund agreed; Commissioner Chilcott agreed.

Commissioner Chilcott said road standards were established based on overall findings of fact. Renee said the Planning Department did not recommend any dust abatement on Long Lane. Commissioner Lund said the findings of fact are no increased traffic and no impact on the area. James said the Commissioners need factual findings to support their conclusion under the criteria, the more the better. Commissioner Chilcott suggested they accept the findings of the staff. James said they must remove findings that do not support their decision.

The findings state there would be no impact because there would be no increased traffic. James said the Board of County Commissioners must have a rational basis for their decision; variance criteria provide that the Board of County Commissioners shall not approve unless there is substantial evidence that the variance should be granted. List what supports the conclusion. You don't need to summarize everything you have heard. Staff reports will be more thorough than you need to be. Everything in the staff report should not end up in your findings, on a summary of substantial evidence that supports your conclusion. Identify evidence that supports your conclusion. Commissioner Chilcott said there is not a substantial impact.

Commissioner Thompson said the summary shows with denial of variance #1, and paving of Long Lane and Thomas court, with no increase in traffic, no increase in negative impacts to surfaces, with paving and mitigation of Long Lane, Thomas court, and a cul-de-sac for emergency vehicles, a significantly improved health and safety condition for residents.

Renee said because of the home on lot b1 there is no increase in traffic. With paving of Thomas Court and Long Lane, and mitigating requirement of dust palliative, the dust will not be a factor.

Under criteria #2, Renee said the overall public health and safety outweigh this.

Commissioner Lund asked if there is no feasibility for a 60' easement because the home too close to road. There should be a physical condition that restricts the applicant from meeting the condition. James said someone could deliberately alter the topography to avoid refusal of a condition.

Commissioner Chilcott said if it were a 5-lot subdivision with no homes on it, these variances wouldn't be sought.

Terry said if it were bare ground, under the new regulations it wouldn't be necessary to ask for variances. Any road serving a subdivision has to be brought up to regulations. Any road not serving a subdivision would not need to be improved. This is under the old regulations. That is what variances are for. If it were bare ground we would need to do this. Commissioner Thompson said if you pave Thomas Court and Long Lane you wouldn't have an issue.

Commissioner Chilcott said from road to road, that was one parcel once; they have been connected through mismatched roads. The biggest concern is for emergency vehicles to be able to pass one another on the road. Public health and safety is the issue.

Commissioner Thompson said it is the same situation on #3, accessing the intersection of Thomas Court and Long Lane. It is foolish to go to the end and put a cul-de-sac.

Renee said the regulations don't specify where the cul-de-sac has to be.

Commissioner Chilcott said there should be mitigation to make sure there is a radius to turn around emergency vehicles. They need dust mitigation on the intersection of Thomas Court and Long Lane. How do we define an appropriate radius?

Commissioner Lund said WGM said increase it to 25'; put in a 25' radius; that should take care of it.

Commissioner Chilcott said they could place a 'Y' or 'T' at the southern end of Long Lane; square it up so a truck could turn around.

Terry asked if the denial of criteria #1 was because of no ingress/egress along Skalkaho Highway. Commissioner Chilcott said, 'yes'.

Commissioner Lund made a motion that Variance Request #1 be denied, based on findings of fact and conclusions of law in the staff report. Commissioner Thompson seconded the motion, and all voted 'aye'.

Commissioner Lund made a motion that Variance Request #2 be approved, based on the findings as amended herein, with the condition of dust abatement on the road accessing Lot B1. Commissioner Lund continued to move that Variance #3 be approved, based on the findings as amended herein, with the conditions that dust abatement be applied to the unimproved portion of Long Lane and the applicant shall construct a 25-foot radii cul-de-sac at the intersection of Long Lane and Thomas Court. Commissioner Lund further moved that the Thomas Subdivision be approved based on the findings of fact and conclusions of law as amended herein and subject to the conditions as amended herein. Commissioner Thompson seconded the combined motion, and all voted 'aye'.

Commissioner Lund made a motion to allow a portion of road on Lot B1 be approved on findings of the Commissioners, as mitigated here today, to allow Long Lane be denied as mitigated further, to approve Thomas Subdivision based on findings except as mitigated here today. Remove the final sentence, no ingress/egress along Skalkaho frontage except

for Long Lane, and # 11 is removed and the new # 11 will say 25' radius along the intersection of Thomas and Long Lane. #12 dust abatement be applied, and once in the following year to the edge of the subdivision on both roads, #14, 60' public easement east from Thomas Court to the end of the subdivision for further future development. Commissioner Thompson seconded the motion, and all voted 'aye'.

In other business the Board met to continue their discussion of large retail development and zoning issues. Present was County Attorney George Corn, Deputy County Attorney and Civil Counsel to the Commissioners, James McCubbin and Interim Planning Director Karen Hughes.

George indicated the Commissioners do have the authority to make zoning through a permit system. George also reminded the Commissioners that they do have emergency zoning, and Montana Law also provides the ability for the Commissioners to involve themselves in zoning of building size. Karen stated her research came to the same conclusion. Other areas have this type of zoning in place, which includes building size and design. Rather than setting up districts for density and design, development permit regulations can occur, and this is also known as zoning. This is where you focus on how they are designed and where they are located. More traditional forms of zoning will also allow you to incorporate the development permit regulations. Karen stated State law leaves quite a bit of discretion to the Counties; it is broad, due to the public health and welfare issues of the Counties.

The Board called for public comment. Commissioner Thompson stated they are limited in time and the Commissioners would like to hear anyone new in the audience.

Ann Harding, Chair of Downtown Business Improvement District, thanked the Commissioners for this second meeting. The important aspect is to keep this within the legal parameters within design standards, and keep the issue within discount, or retail size stores. They are asking for conformity of standards to help maintain the historic and existing infrastructure that the business community can handle.

Miriam Kalamain and Ralphie, her son, members of the Board of Trustees for Downtown Business Association: She is here today because the valley is a good place to raise a child, and a store with a 60,000 square-foot will limit the valley and will impact the business climate. Many businesses have made a commitment to the town and any large store manager will not care about the community. She stated she supports the Growth Policy, which addresses this issue.

Walter Martin stated he is a newcomer and has been here one year today. He owned a business in California and he noted that big box stores came into their community. Now the downtown businesses are out of business or are for sale. There was not more tax revenue gained and does not want to see it happen here.

Paul Bolongea of Corvallis supports the Growth Plan. He stated there are some statistics to show that big box stores do not improve the tax base, and urged the Commissioners to review this. He supports downtown business.

Stewart Dobbins, of Bed and Breakfast, stated the visitors come to see the history and see the beauty of the valley. Big box stores will diminish the beauty of the valley. They bring the pricing down until they get rid of the competitors and then the small stores close.

Kathleen Driscoll stated she does not like to purchase homes near a strip mall. Her concern is that the highway will become developed with strip malls. They do not have a lot of land to use, so it is important to limit the size of the store.

Allen Burgmeyer stated he is a carpenter and can benefit from growth, but does not want to see any big box stores come here. He asked to limit the size of the buildings at the minimum.

Bunny Robbins owns stores and a ½ block of Main Street. There are already vacancies downtown.

Jan Callahan stated the integrity of the community is compromised with big box stores. We need to protect the valley. We do not want strip malls and we need to be careful of what we allow here.

Joy Richards supports local business and hopes to keep the integrity of Hamilton. Please do not let the big retail stores come here.

Holly Milstead stated the big box stores do not care about our community and it impacts the existing stores negatively. Changing the face of our community is not good. We have something very special and we do not need cookie-cutter businesses. This is where we make those decisions on how we want our community to look. Let's maintain our uniqueness.

Lee Foss, Realtor, owns the shopping center north of town. When K-Mart came here it was under 60,000 Sq. Ft.; they had a study to show who would come here. He has been working with larger stores and they have calculations on how to bring in the store. If we limit the size of the buildings, then some like Corixa and Hulls Dairy would have to be shut down.

Joan Perry stated the people have spoken and we are concerned with our valley. We need to move forward quickly and sees no good reason to support big box stores. Let's look at clean industry, instead of large retail stores.

Diane Olson agrees with what has been stated. She does sympathize with those who have trouble affording to shop on Main Street, and maybe there can be a good balance and at

least limit the size of the buildings. She stated there are options and Missoula has all the stores.

Jim Carney of Stevensville has watched the valley grow. He lived in Polson and when K-Mart went in, his business closed down. If subdivisions continue, there won't be enough roads for the cars to drive to the box stores. He is not an advocate of big box stores and they must be controlled.

Amy Lavin of Darby stated she does not mind driving to Missoula. Vermont does not have any Wal-Mart's; we need to make products here in our valley, not help our large trade deficit.

Vicki Stigner moved here from Missoula, loves the small town and Wal-Mart would destroy our beauty. My father from the East Coast was here and loved our small stores and character.

Karen Coons did own a small business. Large box stores are harmful and Wal-Mart is the third largest trading store that does business with China and does not want to buy products from China.

Commissioner Chilcott cautioned to not use names of stores.

Wes Cratty realizes everyone drives to Missoula several times a year because they have to, but they want to come back as soon as they can.

Jim Wood owns real estate and owns a business. He lives here because it is a small town and because of the culture. Businesses are part of the community; we all know each other's names. We have something that people travel here for. We have the opportunity to preserve this. Voters have said this (G.P.) regardless of whether there is pressure. He doesn't want to keep anyone out, but whoever comes here must be good neighbors, so limit the size.

Dick Gallagher lived here for 30 years. He watched how Missoula has changed and it is not quiet and quaint anymore. Their growth without plan is bad. Ravalli County has the opportunity to not go there.

Alice Meriana lived here 30 years; there are many changes and we can't stop all growth, but there is a concern about the integrity of the valley. Box stores make many promises, but we need to be aware of the impacts they have on our valley. She understands the need to shop at a good price, but there is a good price to pay for those cheap products.

Nancy Osaw of Hamilton said it is amazing to even consider a big box store; there is no advantage to anyone. Our businesses have offered good service and employment. Big box stores do not offer any benefits. Downtown will become vacant, and a strip mall will occur from Woodside to Victor. She stated there is no benefit. The stores are an eyesore, and we won't see what our beautiful valley has to offer. Only the communities that are strong enough to not allow them in can keep their character.

Al Mitchell of Paper Clip owned this store for 18 years. He was raised here. He wants to continue with his business, and has been involved in many community efforts with schools and downtown businesses. He quoted "downtowns die and strip malls take 68% of existing stores." They employ people at minimum wage with no benefits. Non-profits will suffer. We have donated to numerous causes. How much have other businesses contributed, just as much as us? The ones who benefit the most from tournaments do not contribute any thing. We give up in charity, economics, and dedicated employers who are forced to relocate. The Growth Policy has been passed and the Commissioners need to enforce this.

Tim Bielby can't go into a box store to just buy one sheet of paper. But you can in Al's store for it.

Peter Reynolds of Corvallis agrees with what has been said about the impacts on the small community. Big box stores will leverage the manufacturing that goes overseas and price-driven economics are impoverishing all of us. They may have cheaper jobs but we cannot afford to buy in that. We need to look at planning. What do we want to look like in 20 years?

Jill Davies stated Commissioner Chilcott supports free trade/market. When America was formed in 1776, they freed themselves from extraction of wealth and domination. Our constitution writers freed themselves from that. They gave power to the states to make corporations redo their charter and could only do so if they were a benefit to the community. We have no control over the corporations; they are multi national, and it is no longer a level playing field.

Commissioner Thompson also stated he, too, does not believe in protectionism, like Commissioner Chilcott. He stated he, too, has studied the Revolutionary War, but our country was built on businesses being able to go into communities. The principle is that people can vote for representatives in their communities. On the surface, the majority are interested in size control. Legal counsel talked to us about rushing something and ending up in litigation. He is a big supporter of the two labs and they have large expansions coming in with good-paying jobs. This is good, clean industry and community members. He indicated if the limitation of size is for retail, then we need to do this correctly. We could do so on an interim basis, by declaring the issue and working on it. He stated he is glad to see people from other areas, not just Hamilton. He stated he has no problem moving forward with this and he understands the commitment to the community by donating.

George stated his research on emergency zoning is complete. There is no legal objection to what they want to do; this is only a political decision. The Board of County Commissioners has the authority to move forward on this. They might need to look at specifics, once the decision is made. Caps on size and design are clearly something the Commissioners have authority to do. You cannot identify a brand or product. We can talk about height, bulk, etc. He stated this is in the statutes. James stated he is less

concerned about 76-2-202 (4) rushing into anything because the law specifically allows this. There are similar regulations from Bozeman to Alaska. Tuolumne County in California, require conditional-use permits for anything over 25,000 sq ft and allow nothing over 60,000 square feet. The Board of County Commissioners just needs to prioritize; the work is there; there should have public hearings to adopt.

George stated John Horwich has made some proposals for standard County zoning, allowing for a protest period. He wants to have something done that is the final set, and then tweak it later, if necessary. James stated you could have something simple in place as interim zoning, then go through the long process of public input and amend it later. James stated the law does allow for the interim zoning. George stated if the Board of County Commissioners does the interim zoning, they would need to continue working on the growth plan.

Jim Wood stated they are looking at the retail aspect of this. Commissioner Chilcott stated he came into the last meeting 'skeptical'. He stated he believes in competition and it makes us better. He stated we should promote those who see a better way to do something. Now he sees this is about the theme and character of the valley, not just about big business. He stated he does not want any unanticipated consequences and we shouldn't be too hasty. Interim zoning addresses the seven points, and one area is congestion on the streets, so he has a concern of holding that issue up in court. George stated one business attracts another, and the courts see the concentration of business at certain times, particularly the location of traffic. He stated the county cannot tell someone they cannot compete; just not compete at a certain size. George stated these seven points apply to any zoning. Commissioner Chilcott stated he wants to address the issue with municipalities within the County. Jim Wood stated they are visiting with the municipalities on this issue.

Karen stated two other criteria exist: they must be made with reasonable consideration as to the character of the district and suitability (could be the whole County) of the uses; and encourages the most appropriate use of land. It must be compatible with municipalities.

Commissioner Lund felt this must be moved forward. She asked Karen if she received an estimate of a consultant (John Horwich). Karen stated the ballpark figure is \$3-5,000 and she does not know if that particular consultant is available. For this issue, they can address it up front, but if you add other issues, it becomes more difficult and time-consuming. George stated this is not a novel thing. Commissioner Lund stated the City of Hamilton and Stevensville Main Street Association are concerned about this.

James asked if there is a time-line of another large retail store coming in. Commissioner Lund stated she visited with one of their Departments, and the site chosen will not pass septic, so it will be some time out.

James stated Clark County, Nevada, put in place zoning of this type, (Wal-Mart vs. Clark County); they got their applications before the zoning, and they had a vested property right, so the court allowed them the ability to come in.

Commissioner Chilcott said, with the Clark County case, time may be of the essence, so the public hearing process time might make this an emergency (interim) zoning issue. Commissioner Lund stated she would rather bite the bullet and do it correctly. James said interim zoning commits you to the bigger project, but you have up to two years, so to go into a full-scale zoning will take some time, possibly up to two years. Commissioner Lund stated she does not want to be challenged in court. Commissioner Chilcott said interim zoning allows the implementation.

George stated James' concern is well placed and it is difficult to do all things at one time. Interim zoning pushes this along.

Commissioner Lund said she is scared of interim zoning, but feels talked into this. Commissioner Chilcott asked if we are talking basic design standards, cap on size, (60,000 sq foot fairly typical with 25,000 conditional use permits), retail/commercial development, adult businesses, motor-cross race tracks, etc? Commissioner Lund said that opens another can of worms and makes this more complicated. George stated to focus on this particular issue.

Commissioner Thompson said when K-Mart came in that was to be a mall. He stated the county must be careful of all the small businesses under one roof. Karen stated they could tailor this zoning so it does not address those types of businesses under one roof. James stated interim zoning is by Resolution and that is 48 hours notice.

Commissioner Lund made a motion to pursue interim zoning for large retail stores over 25,000 square feet with a cap at 60,000 square feet, and work on design standards within the zone. Commissioner Chilcott said lets make one clear number. Commissioner Lund let's go with the 60,000 square-foot cap. Commissioner Thompson seconded the motion. All voted "aye". Now staff will address time frames and priorities. Commissioner Chilcott advised James to review 'the rebate issue first, due to potential litigation.' George stated they are going to be sued on that issue any way they do it. The Board of County Commissioners concurred to move forward.

Commissioner Lund made a motion to move Administrative matters to tomorrow's calendar due to the lateness of this meeting. Commissioner Thompson seconded and all voted "aye".

In other business the Board of County Commissioners met with Airport Manager Red Caldwell and Airport Manager Dave Hedditch in regard to the purchase of the snow plow and purchase of the AWAS. Task Orders need to be signed in order to present to FAA Styba. The Airport Board reviewed the bids and their recommendation is to move forward on the Task Order.

Commissioner Thompson made a motion to have the Chairman sign Task Order #5, agreement between Ravalli County and 'M and M Engineering'. Commissioner Lund seconded. Discussion followed: where does the \$22,000 comes from? Red said it comes from the overall grant, and match money is not needed until December 2006. An updated ALP should come in December 2006 (shows curve modifications etc). All voted "aye".

Application for Grant for federal assistance for AWAS and snowplow was also presented for signature. This reiterates what they have discussed; allocations will come from December 2006 and into the next budget cycle. Red stated the FAA would be on the hook for a multi-year loan for \$223,250.00 with match of \$11,750.00. This is a grant request and is not an acceptance. Commissioner Lund made a motion to sign the grant application for the snow plow purchase. Commissioner Thompson seconded and all voted "aye".

James presented the contract with PBS & J for the fuel spill issue. James stated the contract looks okay on the face; he will read it cover to cover and have Theresa review it. Applications for DEQ funding can be done at the earliest convenience, so James will address this with Theresa first. Theresa is not in, so sign fax and send in. The DEQ form addresses the tank owner or operator in order to apply for the funds, so although we do not own the tank, we are an operator. Commissioner Thompson made a motion to have the Chairman sign the contract with PBS & J. Commissioner Lund seconded the motion, and all voted "aye".